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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,509	06/25/2003	Roman Frick	33997.0086	3642
26712	7590	12/28/2004		
HODGSON RUSS LLP ONE M & T PLAZA SUITE 2000 BUFFALO, NY 14203-2391			EXAMINER LE. TAN	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/603,509	<b>Applicant(s)</b> FRICK, ROMAN	
	<b>Examiner</b> Tan Le	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 2-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This is the second office action for serial number 10/603,509. This application contains 10 pending claims.

#### ***Abstract***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Examiner suggests "The invention concerns" (line 1) should be deleted, and starting with A stand... Correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,035,228 to Yanof et al.

Yanof et al. discloses a frameless stereotactic arm (30) (Fig. 2) comprising a stand column (46 for example); a pivot arm (50, 54 or 106, 114); a rotary bearing (at each joint) for mounting the pivot arm on the stand column; an electromagnetic brake (Figs. 4, 5 for example) for locking the pivoting motion of the pivot arm in the rotary

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bearing (at the joint or knuckle 58, for example); and a mechanical brake (170) (Fig. 7) having adjustable braking force for braking the pivot arm in the rotary bearing. (The electromagnetic brake and mechanical brake devices are provided at respective joints to selectively lock the free end (40) of the arm). The stand of Yanof et al. can be embodied as both a floor stand or a ceiling mounted (42).

***Allowable Subject Matter***

4. Claims 2-8 are objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments filed 10/12/04, with respect to the rejection of claims 1 and 9-10 under 35 USC 102(b) as being anticipated by Miyamae have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of Yanof et al.

***Conclusion***

6. This action is made Non-Final.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (703) 305-8244. The examiner can normally be reached on Mon-Fri. from 9:00Am-6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le  
December 21, 2004